



**Your Comprehensive
Public Works Resource**

www.apwa.net

1200 Main Street, Suite 1400
Kansas City, MO 64105-2100
816-472-6100 800-848-APWA
fax 816-472-1610

25 Massachusetts Avenue, NW
Suite 500A
Washington, DC 20001
202-408-9541

Hearing on *“Building United States Infrastructure through Limited Delays and Efficient Reviews Act of 2023”*

House Committee on Natural Resources

Statement of

B. Keith Pugh

President of the American Public Works Association

February 28, 2023

Chairman Westerman, Ranking Member Grijalva, and Members of the Committee, thank you for the opportunity to provide testimony on proposed reforms to the National Environmental Policy Act (NEPA). My name is Keith Pugh, and I am proud to serve as President of the American Public Works Association (APWA) representing more than 30,000 members and public works professionals. I started my career in public works as a municipal engineer with the City of Greensboro, N.C. in 1988 and worked my way up until I assumed the role of Director of Engineering Services for the City of High Point, NC, a position I held for fifteen years. Today, I continue my work with WithersRavenel, a 100% employee-owned multidisciplinary civil and environmental engineering firm that delivers engineering, planning, and surveying services across North Carolina.

APWA members serve in the public and private sectors providing expertise on the local, state, and federal levels. They are dedicated to providing sustainable public works infrastructure and services to all people in rural and urban communities, both small and large. Working in the public interest, our members plan, design, build, operate and maintain transportation, water supply and wastewater treatment systems, stormwater management, drainage and flood control infrastructure, waste and refuse disposal systems, public buildings and grounds, emergency planning and response, and other structures and facilities essential to the economy and quality of life nationwide.

NEPA is important to public works professionals and serves as the regulatory framework for protecting America's environment while allowing vital infrastructure projects to be undertaken. In the half century since NEPA was enacted, environmental protection has become a prime consideration in the planning, design, and construction of infrastructure. Like any policy that has been in place for five decades, NEPA should be updated to address current societal needs.

As found by the Council on Environmental Quality, for federal highway projects the average length of a final Environmental Impact Statement (EIS) was 645 pages and the average time to conduct NEPA reviews was 7.3 years, we need to protect our environment and find efficiencies to reduce these burdens--it can be done. The increased time and page length is attributable to administrative burdens placed on communities investing in their infrastructure. These burdens are often overwhelming for public works professionals in carrying out their responsibilities with limited resources. For instance, I am working on a greenway project for which the NEPA process has already added approximately 18 months to our project timeline and tens of thousands of dollars to the cost.

Our nation's infrastructure needs continued updating and maintenance, and in some cases full replacement. Roads, bridges, drinking water, wastewater, emergency management, sanitation, cybersecurity and much more need investment right now. While the federal government does appropriate funds for projects like these across the country, some communities are deciding against applying for federal funds due to the onerous nature of permitting requirements, including NEPA. In my experience, any time federal funds were introduced into a project, we immediately added at least 25% to the project budget. However, the final cost could be significantly higher than that. This is due to the administrative burdens placed on the local government, the design professionals working on the project, the contractor, and the inspection close-out process. Furthermore, some small agencies do not have the staff capacity to handle the additional documentation, so they have to seek outside assistance which automatically increases the overall project cost.

Some communities that cannot access other financing sources rely on federal funding and end up spending a large portion of the project dollars on permitting requirements rather than on infrastructure improvement. In the worst cases, these communities defer maintenance until infrastructure fails. We

have seen this occur across the country and the consequences for people and the environment, including in my home state where delays in water infrastructure improvements risk increased chances of flooding and contamination from major storm events. These delays extend to transportation systems including mass transit that reduce congestion and emissions. In the end, many communities are not upgrading and maintaining their infrastructure as needed, leading to a lower quality of life for residents, as well as lower environmental protections and higher public health risks.

For infrastructure programs to be most effective, the application process should not be so overly complex that it dissuades small, rural, tribal, and disadvantaged communities from attempting to access funding. Public works professionals are doing what is best for their communities despite an array of challenges, and APWA places a high priority on respecting and enhancing local control for infrastructure projects. It is important that local governments have a seat at the table and are fully engaged in the permitting process since they know their communities best. We strongly encourage the federal government and industry to coordinate with state and local governments on infrastructure projects.

Additionally, unfunded mandates should be avoided, and financial support should be provided to states and localities to fulfill federal mandates. This is especially true now, as relief is so desperately needed from supply chain shortages and inflation. The cost of construction and materials has rapidly increased and necessitated the acquisition of significant additional funding beyond original estimates. Communities are considering, in some cases, pre-ordering items such as pumps, valves, pipe, iron castings, precast units, and other items to expedite the construction process. By pre-ordering materials, agencies can theoretically secure materials quicker than the contractor who would have to wait until having a fully executed contract with the agency before proceeding. The problem with this type of

ordering is typically storage and delivery of materials, as well as warranty issues. This shows that even proactive communities are not immune to these cost and timing issues, which are exacerbated by permitting delays. These higher costs are ultimately passed on to the public through higher rates or the diversion of resources from other community priorities.

APWA supports continuing efforts to streamline the regulatory process related to infrastructure projects and has been vocal in that support during administrations of both parties. APWA has been supportive of streamlining efforts undertaken in the Fixing America's Surface Transportation (FAST) Act, and "One Federal Decision" when it was proposed by the Trump administration and codified in the Infrastructure Investment and Jobs Act (IIJA). These actions have provided a more predictable, transparent, and timely federal review and authorization process for delivering major infrastructure projects. However, work remains to be done, and **APWA supports:**

- Establishing a lead federal agency to develop a joint review schedule and preparation of a single environmental document and joint record of decision for projects that require multi-agency reviews.
- Establishing time limits of two years for completion of Environmental Impact Statements (EIS) and one year for Environmental Assessments (EA).
- Establishing a 300-page limit for EIS of "extraordinary complexity" and a 75-page limit for each EA.
- Extending the completion period with the approval of the applicant when necessary to allow for further consultation with local agencies.
- Bringing the statute of limitations for NEPA cases in line with other environmental statutes (120 days).

- Reducing duplicative reporting by allowing adherence to state or even local standards often equally or more stringent than federal rules to be used as evidence of compliance with federal standards.
- Examining a reasonable number of alternatives for projects that are technically and economically feasible, including, if considered, an analysis of any negative environmental impacts of a no action alternative.
- Clarifying that the environmental review process should consider any proposed action within the context of past, present, and “reasonably foreseeable” effects.

All recommendations we are pleased to see included as provisions in the BUILDER Act.

Chairman Westerman and Ranking Member Grijalva and Members of the Committee, thank you and your staff for holding this hearing and your work on permitting reform. We are especially grateful for the opportunity to submit this statement and speak to the experiences of our members with the permitting process. APWA stands ready to assist you and Congress as you work to make these reforms law.